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DELPHINE M. JAMES
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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Davis	:	
Application No. 10/603,020	:	DECISION ON PETITION
Filed: June 24, 2003	:	
Attorney Docket No. DMJ20030531	:	

This is a decision on the petition, filed August 20, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application became abandoned for failure to timely and properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 24, 2006, which set a shortened statutory period for reply of three (3) months. Petitioner obtained a two month extension of time under the provisions of 37 CFR 1.136(a) and filed an amendment after final on August 24, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the September 26, 2006 Advisory Action. On September 25, 2006 (a Monday) an RCE was filed. However, an additional one month extension of time was not filed on that date. Accordingly, the application became abandoned on August 25, 2006.

Petitioner asserts that the RCE was filed within the 6 month period and that applicant paid the extension of time fee with the original response.

Petitioner is informed that only a two month extension of time had been purchased when the September 25, 2006 RCE was filed. Per 37 CFR 1.23 Method of Payment (b), in pertinent part, "... Payment of a fee by credit card must specify the amount to be charged to the credit card and

The 2 month extension of time paid on August 24, 2006 was paid by credit card. As stated above, there are no general authorizations to charge fees to a credit card. A review of the official file reveals that there is no blanket authorization to charge a deposit account on file and the RCE filed on September 25, 2006 was not accompanied by payment for an additional one month extension of time.

In a separate petition entitled, “PETITION TO WITHDRAW ABANDONMENT,” petitioner argues that the application was unavoidably abandoned and in the alternative unintentionally abandoned. This petition was filed on August 20, 2007, as well. If petitioner wishes consideration under 37 CFR 1.137(a) or 1.137(b), then petitioner must file an appropriate petition fee.

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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions